



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED] DECISION  
[REDACTED]

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**PRELIMINARY RECITALS**

Pursuant to a petition filed August 06, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on November 04, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether the agency erred in its budgeting of income from [REDACTED] during months of July and August 2015 while she was not actually working and school was not in session.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: [REDACTED]  
Milwaukee Enrollment Services  
1220 W Vliet St, Room 106  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

John P. Tedesco  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner is a 10-month employee under contract with [REDACTED]  
[REDACTED]

3. The agency had previously budgeted a monthly income of \$1,870.47 for petitioner by taking her ten-month contractual income and deriving a monthly income by dividing by 12 months.
4. In August 2015, petitioner also received a \$304 W2-Disability payment.
5. Petitioner filed an appeal on the basis that the agency counted income for her in July and August when she was not actually working.

### **DISCUSSION**

For the FoodShare (FS) program eligibility and benefit calculations are usually based on prospectively budgeted monthly income using estimated amounts. *See FoodShare Wisconsin Handbook, § 4.1.1.*

Petitioner is a contracted employee of the school and has set income budgeted as contractual pay. Petitioner's argument at hearing was that she is a 10-month employee and has no income during the summer months. She does not understand why the agency is counting any income for her during the summer. The answer is that the FS rules require that the agency do so. The FS Handbook at § 4.3.2.1 (13) provides:

*Contractual Pay. Contractual income that is the food unit's annual income (intended to provide support for the entire year), and is not paid on an hourly or piece work basis, should be prorated over 12 months. Contractual income that is not the food unit's annual income (intended to provide support for the HH for only a portion of the year), and is not paid on an hourly or piece work basis, shall be prorated over the period the income is intended to cover.*

The issue here arose because the allotment had been figured using the contractual sum as the annual income. But, by gaining additional income from W2 petitioner added income which changed her FS allotment. Petitioner expressed confusion as to why she could be eligible for W2 during months when the FS counts her as having income. The simple answer is that they are different programs with different rules. Next year, petitioner may elect not to seek W2 income as it will likely again affect her FS allotment.

### **CONCLUSIONS OF LAW**

That the county agency correctly budgeted a 12 month average of the contractual pay.

**NOW, THEREFORE, it is** **ORDERED**

That the petition for review and same is hereby dismissed.

### **REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

## **APPEAL TO COURT**

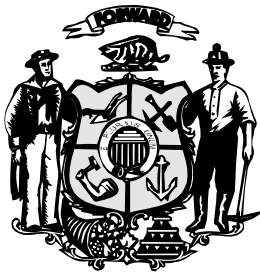
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,  
Wisconsin, this 18th day of November, 2015

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\sJohn P. Tedesco  
Administrative Law Judge  
Division of Hearings and Appeals



## State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on November 18, 2015.

**M**ilwaukee Enrollment Services  
Division of Health Care Access and Accountability